BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 28 19 89

Bill H 195 S _____ Original bill & history ✓ C

H. Committee on Education & Cultural Resources		S. Committee on Education & Cultural Resources	
Hearing Date(s) Jan 20	✓ C	Hearing Date(s) Feb 01	✓ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
_____	____ C	_____	____ C
Date Out Jan 20	✓ C	Feb 01	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

1/17 FISCAL NOTE REQUESTED
1/23 FISCAL NOTE RECEIVED
1/24 FISCAL NOTE PRINTED
3/13 HEARING
3/17 COMMITTEE REPORT--BILL PASSED AS AMENDED
3/20 2ND READING PASSED 65 30
3/22 3RD READING PASSED 60 35

TRANSMITTED TO SENATE
3/22 REFERRED TO FINANCE & CLAIMS
4/14 HEARING
4/15 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
4/17 2ND READING CONCURRED 35 8
4/19 3RD READING CONCURRED 39 11

RETURNED TO HOUSE WITH AMENDMENTS
4/20 2ND READING AMENDMENTS CONCURRED 54 37
4/20 3RD READING AMENDMENTS CONCURRED 55 40

4/26 SIGNED BY SPEAKER
4/26 SIGNED BY PRESIDENT
4/27 TRANSMITTED TO GOVERNOR
5/16 SIGNED BY GOVERNOR
WITH LINE ITEM VETO
CHAPTER NUMBER 670 EFFECTIVE DATE: 7/01/89

HB 194 INTRODUCED BY RICE, ET AL.
ESTABLISH VENUE FOR REVIEW OF DECISION OF SUPERINTENDENT OF PUBLIC INSTRUCTION

1/16 INTRODUCED
1/16 REFERRED TO JUDICIARY
1/24 HEARING
1/25 TABLED IN COMMITTEE

HB 195 INTRODUCED BY RICE
ESTABLISH TIME FOR HEARING ON APPEAL OF DISMISSAL OF TEACHER

1/16 INTRODUCED
1/16 REFERRED TO EDUCATION & CULTURAL RESOURCES
1/20 HEARING
1/23 COMMITTEE REPORT--BILL PASSED AS AMENDED
1/25 2ND READING PASSED 97 0
1/27 3RD READING PASSED 99 0

TRANSMITTED TO SENATE
1/28 REFERRED TO EDUCATION & CULTURAL RESOURCES
2/01 HEARING
2/02 COMMITTEE REPORT--BILL CONCURRED
2/07 2ND READING CONCURRED 50 0
2/09 3RD READING CONCURRED 50 0

RETURNED TO HOUSE
2/17 SIGNED BY SPEAKER
2/20 SIGNED BY PRESIDENT
2/20 TRANSMITTED TO GOVERNOR
2/23 SIGNED BY GOVERNOR
CHAPTER NUMBER 28 EFFECTIVE DATE: 10/01/89

HOUSE BILL NO. 195

INTRODUCED BY RICE

IN THE HOUSE

JANUARY 16, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
	FIRST READING.
JANUARY 23, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 24, 1989	PRINTING REPORT.
JANUARY 25, 1989	SECOND READING, DO PASS.
JANUARY 26, 1989	ENGROSSING REPORT.
JANUARY 27, 1989	THIRD READING, PASSED. AYES, 99; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 28, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON EDUCATION & CULTURAL RESOURCES.
FEBRUARY 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 7, 1989	SECOND READING, CONCURRED IN.
FEBRUARY 9, 1989	THIRD READING, CONCURRED IN. AYES, 50; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1989 RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

HOUSE BILL NO. 195

INTRODUCED BY Rice

A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE A COUNTY SUPERINTENDENT OF SCHOOLS, ON APPEAL OF A DISMISSAL OF A TEACHER FOR CAUSE, TO SCHEDULE A HEARING WITHIN 10 DAYS AND TO HOLD THE HEARING WITHIN 40 DAYS, UNLESS THE PERIOD IS EXTENDED BY MUTUAL AGREEMENT BETWEEN THE PARTIES; AND AMENDING SECTION 20-4-207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-4-207, MCA, is amended to read:

"**20-4-207. Dismissal of teacher under contract.** (1) The trustees of any district may dismiss a teacher before the expiration of his employment contract for immorality, unfitness, incompetence, or violation of the adopted policies of such trustees.

(2) (a) The following persons may recommend the dismissal of a teacher for cause under subsection (1):

(i) a district superintendent;

(ii) in a district without a district superintendent, a principal; or

(iii) in a district without a district superintendent or a principal, the county superintendent or a trustee of the district.

(b) A person listed in subsection (2)(a) who recommends dismissal of a teacher shall give notice of the recommendation in writing to each trustee of the district and to the teacher.

(c) The notice must state the specific instances of behavior or acts that led to the recommendation for dismissal.

(3) (a) Whenever the trustees of any district receive a recommendation for dismissal, the trustees shall notify the teacher of his right to a hearing before the trustees either by certified letter or by personal notification for which a signed receipt must be returned. The teacher may in writing waive the right to a hearing. Unless the teacher waives the right to a hearing, the teacher and trustees shall agree on a hearing date not less than 5 days or more than 20 days from the notice of intent to recommend dismissal.

(b) The trustees shall conduct a hearing on the recommendation and resolve at the conclusion of the hearing to dismiss the teacher or to reject the recommendation for dismissal.

(4) With the exception of a county superintendent, a person who recommends dismissal pursuant to subsection (2) may suspend the teacher from active performance of duty with pay pending the hearing date if the teacher's behavior or

INTRODUCED BILL
HB 195

acts that led to the recommendation for dismissal are contrary to the welfare of the students or the effective operation of the school district.

(5) Any teacher who has been dismissed may in writing within 10 days appeal such dismissal to the county superintendent. Following such appeal, a hearing ~~shall~~ must be ~~held~~ scheduled within 10 days and held within 40 days, except that the period may be extended upon agreement between the teacher and the trustees. If the county superintendent, after a hearing, determines that the dismissal by the trustees was made without good cause, he shall order the trustees to reinstate such teacher and to compensate such teacher at his contract amount for the time lost during the pending of the appeal."

-End-

Closing by Sponsor: Rep. Strizich thanked the committee and said he would appreciate a DO PASS vote on HB 213.

DISPOSITION OF HOUSE BILL 213

Motion: Rep. Kilpatrick made the motion that HB 213 DO PASS.

Discussion: Rep. Simpkins asked Jack Noble of the Board of Regents if he felt this would open the door to more and more waivers from other groups and Mr. Noble replied that fee waivers are considered by categories on merit. He also said this particular waiver is not going to have an extensive impact and that most would empathize with a family's loss.

Rep. Phillips then asked for further clarification of a full-time employed member of a law enforcement agency. Sheriff Chuck O'Reilly of the Lewis & Clark County Sheriff's Department explained it means just that and the exceptions would be limited jurisdiction peace officers such as campus police and Department of Revenue Investigators who do not have full-fledged powers. They are not considered part of a law enforcement agency as defined by code. He added it would apply to sheriff and police departments, highway patrol, game wardens and State Attorney General Investigators.

Amendments, Discussion, and Votes: Rep. Eudaily made the motion to amend HB 213 as suggested by Rep. Strizich. The motion CARRIED upon unanimous voice vote. Rep. Cocchiarella made the motion to amend page 2, line 14 changing "patrolman" to "patrol officer" and the motion CARRIED upon unanimous voice vote. (See Attached Standing Committee Report)

Recommendation and Vote: Rep. Darko made the motion that HB 213 DO PASS AS AMENDED. The motion CARRIED upon unanimous voice vote.

HEARING ON HOUSE BILL 195

Presentation and Opening Statement by Sponsor:

Rep. Jim Rice, District 43, Helena stated HB 195 was introduced to remedy an unworkable deadline set forth in statute for the review of an appeal of a discharged teacher. Rep. Rice said that presently a discharged teacher has the right to file an appeal to the County Superintendent of Schools and a hearing must be held on that appeal within ten days giving neither side enough time to adequately prepare. The bill would mandate that the hearing must be scheduled within ten days but could be held anytime within the following forty days. He said the bill also includes the provision that if both sides agree to a different schedule they have the ability to do so.

Testifying Proponents and Who They Represent:

Bruce Moerer, Montana School Boards Association (MSBA)
Phil Campbell, Montana Education Association (MEA)

Proponent Testimony:

Bruce Moerer, (MSBA) said the time frame between filing an appeal and the hearing is almost impossible to meet having to line up witnesses, attorneys and other preparation. He stated the law isn't presently being complied with due to this short time frame.

Phil Campbell, (MEA) stated in reality he couldn't remember a hearing being held within the ten day limit which is not practical. He said HB 195 provides a reasonable remedy for the situation but the MEA would prefer a thirty day limit and would support an amendment to that affect.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: None

Closing by Sponsor: Rep. Rice thanked the committee and said he would agree to amend HB 195 as discussed.

DISPOSITION OF HOUSE BILL 195

Motion: Rep. Stang made the motion that HB 195 DO PASS.

Discussion: None

Amendments, Discussion, and Votes: Rep. Stang made the motion to amend HB 195 to thirty days. The motion CARRIED on a unanimous voice vote. Rep. Eudaily then made the motion to amend HB 195 to insert "after the appeal" on page 3, line 7. The motion CARRIED unanimously upon voice vote.

Recommendation and Vote: Rep. Darko made the motion that HB 195 DO PASS AS AMENDED. The motion CARRIED upon unanimous voice vote.

DAILY ROLL CALL

EDUCATION & CULTURAL RESOURCES COMMITTEE

DATE January 20,1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Ted Schye, Chairman	✓		
Rep. Fritz Daily, Vice-Chairman	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Paula Darko	✓		
Rep. Ervin Davis	✓		
Rep. Ralph Eudaily	✓		
Rep. Floyd Gervais	✓		
Rep. Bill Glaser	✓		
Rep. Dan Harrington	✓		
Rep. John Johnson	✓		
Rep. Tom Kilpatrick	✓		
Rep. Richard Nelson	✓		
Rep. John Phillips	✓		
Rep. Richard Simpkins	✓		
Rep. Wilbur Spring, Jr.	✓		
Rep. Barry "Spook" Stang	✓		
Rep. Fred Thomas	✓		
Rep. Norm Wallin	✓		
Rep. Diana Wyatt	✓		
Rep. Tom Zook	✓		

Form CS-30A
Rev. 1985

STANDING COMMITTEE REPORT

January 20, 1989

Mr. Speaker: We, the committee on Education and Cultural Resources report that HOUSE BILL 195 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Title, line 7.
Strike: "40"
Insert: "30"

2. Page 3, line 7.
Strike: "40"
Insert: "30"
Following: "days"
Insert: "after the appeal"

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL NO. HB 195 DATE January 20, 1989

SPONSOR Rice

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bruce Moerer	MSBA	X	
Ted Campbell	MEA	X with Amendments	
Jess W Long	SAM	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By Senator H. W. Hammond, Chairman, on February 1, 1989, at 1:00 pm in Room 402 at the State Capitol

ROLL CALL

Members Present: Senators; H. W. Hammond, Dennis Nathe, Chet Blaylock, Bob Brown, William Farrell, Pat Regan, John Anderson Jr., and Joe Mazurek

Members Excused: None

Members Absent: Senator R. J. "Dick" Pinsoneault

Staff Present: Dave Cogley, Staff Researcher and Julie Harmala, Committee Secretary

Announcements/Discussion:

None

HEARING ON HB 195

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE JIM RICE, House District #43, stated that the purpose of this bill is to correct an unworkable time frame that is presently in the law for the review of a teacher.

He went on to explain that what this bill does not do is that it does not affect a non renewal of a tenured teacher for cause. There are other provisions in the law for this and there are also other provisions for a non renewal of a non tenured teacher and this bill does not affect this.

The bill applies to the "narrow situation" in which a teacher is terminated during the course of the school for some gross misconduct. He explained that presently under the law, when a school board makes a decision to terminate a teacher that teacher may appeal that decision to

the county superintendent of schools and under the law that stand now the hearing on that appear must be held within 10 days after the written appeal is logged. This is much too short of a time frame for either party to prepare for such a hearing. He pointed out that this bill would be to change the same time frame to state that the hearing must be scheduled within 10 days but must not be held until 30 days after the appeal, just to give additional time for the parties to have to prepare before that hearing was held. It also gives the option of the parties setting an entirely new date if they do not want to fall within the criteria of the 30 days. He pointed out that this was a simple bill and he did not think any party was opposed to it.

List of Testifying Proponents and What Group they Represent:

BRUCE MOERER, The Montana School Boards Association
ERIC FEAVER, The Montana Education Association

Testimony:

BRUCE MOERER stated that HB 195 was a resolution passed at the MSBA Convention held last October. When looking at the section of the bill that talks about when a teacher, tenured or nontenure mid contract is terminated, it is definitely for a serious offense. This offense would be abuse of a child. For example when a chemistry teacher exposed students to harmful experiments, he was dismissed on the spot. The requirement for a hearing within 10 days of the date of notice would be impossible to meet and what is being talked about is a very important hearing, both for the teacher and the school board. By the time a teacher and the school board lines up the attorneys and the expert witnesses it is impossible to meet a 10 day dead line. In actuality there is no one who is complying with this law and they are ignoring this legal requirement for 10 days. It seems necessary to amend this to give everyone a fair amount of time to prepare for this important hearing.

He concluded by saying that they recommend a do pass for HB 195

ERIC FEAVER, announced that the association rose as to support HB 195, although they are not totally convinced that it is necessary because

attorneys have been doing this anyway. But the association is in agreement with the intent of the bill. He stated that they did cause an amendment to be adopted by the House committee and it was adopted by the whole house regarding this legislation and there is no reason to defeat this legislation, so they urge the committee's positive consideration of this bill.

List of Testifying Opponents and What Group They Represent:

None

Questions From Committee Members:

Senator Hammond asked Rep. Rice why they had amended 40 days and changed it to 30. Rep. Rice responded by explaining that yes it had been originally written for 40 days but because of a conference that was held with the parties it was decided that this had to get running so this 30 days was amended in the house committee. It is important though to understand he said that a hearing date has to be scheduled within 10 days of an appeal then held within 30 days of that appeal. The maximum lengthy of time is 30 days unless the parties get together and agree to a different date. The House amended the language to read thirty days from the time the notice is lodged.

DISPOSITION OF HB 195

Discussion:

None

Recommendation and Vote:

Senator Mazurek moved that HB 195 be concurred in.

Senator Regan called for the question.

THE MOTION WAS CARRIED UNANIMOUSLY.

Senator Mazurek will carry HB 195 to the floor of the Senate.

ROLL CALL

EDUCATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date 2/1/89

NAME	PRESENT	ABSENT	EXCUSED
Chairman Swede Hammond	✓		
Vice Chairman Dennis Nathe	✓		
Senator Chet Blaylock	✓		
Senator Bob Brown	✓		
Senator Dick Pinsoneault		✓	
Senator William Farrell	✓		
Senator Pat Regan	✓		
Senator John Anderson Jr.	✓		
Senator Joe Mazurek	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 1, 1989

MR. PRESIDENT:

We, your committee on Education and Cultural Resources, having had under consideration HB 195 (third reading copy -- blue), respectfully report that HB 195 be concurred in.

Sponsor: Rice (Mazurek)

BE CONCURRED IN

Signed: _____

H. W. Hammond, Chairman

Y.C.
2/2/89
11:25 a.m.

SCRHB195.201

DATE 2-1-89

COMMITTEE ON Education 1:00 M.W.F

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Dave Nickles	MEA	195/251	X	
Jack Copps	CPI	281	X	
Chuck Etzell	Mt Sheriffs + Peace Officers	H213	X	
[illegible]	MEA	HB 195 281	X	
[illegible]	CPI	281	X	
[illegible]	Mt Sheriffs + Peace Officers	281	X	
Edward L Elias	Mt Std Council of Police Officers	HB 213	X	

(Please leave prepared statement with Secretary)